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Claim Objections

The Examiner objected to Claims 39, 44 because of the following informalities: in claim 39, in paragraph (e), after "substitution" and before "glycine," the term -of- should be added. In claim 44, line 2, "molecule" should be cancelled and replaced with - compound- in order to remain consistent with the language of claim 35. Furthermore, in claim 44, paragraph (e), the term -of- should be added after "substitution" and before "glycine." Applicants have amended the claims to address the Examiner's objections.

REJECTION UNDER 35 U.S.C. § 112

The Examiner rejected Claim 53 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants have amended the claims include the limitation of treating patients with elevated glucose levels. Additionally, Applicants' specification includes disclosure of GLP-1 compounds being useful in treating Type II diabetes, Type I diabetes, having the ability to elicit increased insulin secretion and biosynthesis, to reduce glucagon secretion, to delay gastric emptying, and to preserve and even restore pancreatic beta cell function. (See page 1 lines 13 to 24 of Applicants' specification). The condition to be treated is a patient having elevated glucose levels. Thus, an adequate written description is provided. Applicants respectfully submit that this rejection is inappropriate and request reconsideration and withdrawal of the rejection.

REJECTION UNDER 35 U.S.C. § 103

The Examiner rejected Claims 35-53 under 35 U.S.C. §103(a) as "as being unpatentable over Knudsen et al., 6,458,924." The Examiner previously determined that Knudsen is not prior art because the disclosure of specific surfactants is not supported in the priority application.

"Knudsen et al (US 2001/0011071) is cited as art of interest. However, Knudsen et al's disclosure of specific surfactants (see, e.g., paragraph 1605) is not supported in the disclosure of Knudsen et al's priority applications serial no. 08/918,810 or PCT/DK97/00340 (= WO Patent Application 98/08871), and accordingly Knudsen et al is not prior art against the instant claims." (See Notice of Allowability, paper

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number 16 of Application/Control Number: 09/585,181, by Jeffery Russell, October 20, 2001.)

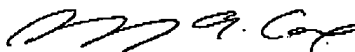
Therefore, the obviousness rejection is moot because Knudsen is not prior art.

Double Patenting

The Examiner rejected Claims 35-53 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,358,924 in view of Knudsen et al., supra. Likewise, as stated above, Knudsen is not prior art and therefore the rejection is moot.

If the Examiner feels that a telephone conversation with Applicants' Attorney would be helpful in expediting the prosecution of this case, the Examiner is urged to call Applicants' Attorney at (317) 277-2620

Respectfully submitted,



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